

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
BEFORE THE HONORABLE CARL W. HOFFMAN, MAGISTRATE JUDGE  
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UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	No. 2:16-cr-100-GMN-CWH
	:	
-vs-	:	October 2, 2018
	:	
JAN ROUVEN FUECHTENER,	:	Las Vegas, Nevada
	:	
Defendant.	:	
	:	

TRANSCRIPT OF MOTION HEARING

## **APPEARANCES:**

FOR THE PLAINTIFF: CHRISTOPHER BURTON  
Assistant United States Attorney  
Las Vegas, Nevada

FOR THE DEFENDANT: KAREN CONNOLLY  
Attorney at Law  
Las Vegas, Nevada

ALSO PRESENT: RICHARD SCHONFELD  
Attorney at Law  
Las Vegas, Nevada

Transcribed by: Margaret E. Griener, CCR #3, FCRR  
Official Reporter  
400 South Virginia Street  
Reno, Nevada 89501

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 2, 2018, 3:01 P.M.

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4 THE CLERK: This is the time set for United  
5 States of America versus Jan Rouven Fuechtener, case number  
6 2:16-cr-100-GMN-CWH.

7 Counsel, please enter your appearances.

8 MR. BURTON: Good afternoon, your Honor.

9 Your Honor, Christopher Burton on behalf of the  
10 United States for Eli Roohani.

11 MS. CONNOLLY: Karen Connolly and Jan Rouven  
12 Fuechtener who is present at counsel table.

13 THE COURT: Good afternoon, counsel. Good  
14 afternoon, Mr. Fuechtener.

15 Here we're on number 299, it is defense  
16 counsel's motion to withdraw as counsel. I know that this  
17 case has had a firm setting for sentencing in November, and --

18 MR. BURTON: Correct, your Honor.

19 THE COURT: And other than that, does the  
20 government have anything to add?

21 MR. BURTON: Your Honor, I think we laid it out  
22 in our response to the motion to reconsider which is also  
23 pending.

24 Your Honor, at this point the government is sort  
25 of at a standstill or a crossroads as to who Mr. Fuechtener

1 would like to represent him in this matter. We're getting  
2 different stories from different sources.

3 So to the extent that, you know, I suspect I'll  
4 be excused from the courtroom, I would ask this Court to  
5 canvass the defendant on whether he authorized the filing of  
6 the motion to reconsider, and if the defendant is prepared to  
7 affirm whom it is that he wishes to represent him in this  
8 matter, I would appreciate that.

9 THE COURT: Okay. All right. Thanks. You can  
10 step out then. I'm going to seal the record.

11 MR. BURTON: Thank you.

12 MR. SCHONFELD: Your Honor, Richard Schonfeld.

13 I'd request permission to remain because I also  
14 have possession of privileged communication as it relates  
15 to --

16 THE COURT: You need to come up to a microphone.

17 MR. SCHONFELD: Your Honor, this is Richard  
18 Schonfeld.

19 As the Court is aware, we've specially appeared  
20 on behalf of the defendant. I would ask for permission to  
21 remain in the courtroom because I also have privileged  
22 communication between Mr. Fuechtener and myself relative to  
23 the issue of being authorized to file the motion for  
24 reconsideration that obviously I don't want to have to present  
25 in a public forum.

1 THE COURT: Ms. Connolly, what's your view on  
2 that?

3 MS. CONNOLLY: May we have the Court's  
4 indulgence? We need to figure out what -- I mean, I think  
5 maybe -- I think it's up to him, really, if he wants to  
6 have -- I mean, his conversations with me are privileged. I  
7 am not even allowed to disclose them with Mr. Schonfeld  
8 without my client's permission so --

11 UNIDENTIFIED SPEAKER: (Inaudible.)

12 THE COURT: Okay. All right. I'll allow you to  
13 stay here.

14 MS. CONNOLLY: So --

15 THE COURT: Well, let's do it one step at a  
16 time. Let me talk to Ms. Connolly and Mr. Fuechtener first,  
17 and then we'll go from there.

(Refer to a separate sealed transcript of proceedings.)

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4 THE CLERK: The record has been unsealed, your  
5 Honor.

6 THE COURT: Mr. Burton, let me bring you  
7 up-to-date.

8 The request to withdraw by Ms. Connolly is  
9 denied, she will remain as CJA counsel.

10 Additionally I had a discussion with  
11 Mr. Schonfeld in trying to figure out what happens to this  
12 motion for reconsideration because that may -- because the  
13 fact that there are two lawyers working on this case may have  
14 an impact on the way the government views how this case is  
15 being prosecuted. You mentioned as much. And the defendant, I  
16 should say.

17 And Mr. Fuechtener is in a difficult situation  
18 because he wants to have the funds available that he thinks  
19 he's entitled to have in order to retain counsel and to hire  
20 experts and to do other things that he needs to do to defend  
21 himself.

22 He has no choice, though, if he doesn't try to  
23 get this money, and so that's why he is requesting  
24 reconsideration. In other words, he's not requesting  
25 reconsideration in order to rattle the government's cage, he's

1 simply saying, "I want to have the opportunity to get that  
2 money so that I can improve my defense."

3 I think it's a reasonable position for him to  
4 take. If he has money that's not the result of ill-gotten  
5 gains, then that money should be reasonably available to a  
6 defendant under the Sixth Amendment because you don't want to  
7 take away his ability to defend himself with his own money  
8 basically that's being reserved now for the possible  
9 forfeiture, the fines, or whatever it might be, as part of the  
10 sentencing.

11 So he's between a rock and a hard place here.  
12 He wants to get that money, he doesn't want to cause a problem  
13 with the government, but -- and yet this discussion is causing  
14 problems with Ms. Connolly trying to represent him.

15 And so that's what we've talked about here, and  
16 I wanted to make the record clear that the request to withdraw  
17 is denied, and Mr. Schonfeld is authorized to proceed with the  
18 request for reconsideration on the release of funds, and  
19 Mr. Schonfeld -- I mean, Mr. Fuechtener explained why that was  
20 important, and so I guess I'll leave it at that.

21 Any need for clarification or questions for me?

22 MR. BURTON: So if I understand you correctly,  
23 your Honor, Ms. Connolly is at this point counsel of record.

24 THE COURT: CJA.

25 MR. BURTON: And Mr. Schonfeld is permitted to

1 proceed with the motion to reconsider.

2 THE COURT: Yes. He's made an appearance as  
3 special counsel for the special specific purpose of getting  
4 these funds released, and I view that as part of the defense  
5 strategy overall.

6 And so, yes, they're authorized -- Schonfeld is  
7 authorized to file this motion for reconsideration.

8 MR. BURTON: Understood, your Honor, thank you.

9 THE COURT: Okay. Ms. Connolly, any need for  
10 clarification?

11 MS. CONNOLLY: No, your Honor.

12 THE COURT: All right. Thank you very much.

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14  
15 I certify that the foregoing is a correct  
16 transcript from the record of proceedings  
in the above-entitled matter.

17 /s/Margaret E. Griener 5/3/2019  
18 Margaret E. Griener, CCR #3, FCRR  
Official Reporter

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